

**LICENSE FOR RIGHT OF ENTRY
FROM PUBLIC SERVICE ELECTRIC AND GAS COMPANY
BLOCK 285, LOT 1A AND LOT 1B
TOWN OF KEARNY, HUDSON COUNTY, NEW JERSEY
TO
USEPA, REGION II**

Public Service Electric and Gas Company ("PSE&G" or "Licensor"), having its principal office at 80 Park Plaza, Newark, New Jersey 07102-0570 does hereby grant to the United States Environmental Protection Agency, Region II ("USEPA" or the "Agency"), having its office at 290 Broadway, New York, New York, 10007-1866, and its employees, agents, contractors and subcontractors (including representatives and officials of the New Jersey Department of Environmental Protection), who are performing work on behalf of USEPA (collectively "Licensee") as described below and to be performed on PSE&G Property, permission to enter upon, use and occupy property owned by PSE&G, located in the vicinity of 1401 Harrison Avenue, Kearny, New Jersey, known more precisely as Block 285, Lot 1A and Lot 1B (hereinafter referred to as the "Premises"). Permission to enter upon the Premises for the purposes specifically described below shall be granted following a joint site visit by the parties to confirm the location and boundaries of the Premises pursuant to this License, for the limited purposes of conducting delineation activities in connection with a remedial investigation being conducted on properties in the vicinity of the Premises as set forth below:

- (i) geophysical investigations;
- (ii) collection of surface soil, subsurface soil, and sediment samples;
- (iii) collection of surface and groundwater samples; and
- (iv) Any other miscellaneous tasks USEPA determines are necessary to conduct its investigation,

and, in accordance with the following terms and conditions:

1. PSE&G has been informed that these actions by the USEPA are undertaken pursuant to its response and enforcement responsibilities under the Comprehensive Environmental Response, Compensation and Liability Act (Superfund), 42 U.S.C. §9601 et seq.

2. The term of this License shall commence upon the date of execution. Unless sooner revoked by PSE&G, this License shall expire upon completion of work or twelve (12) months from the date of commencement of work, whichever shall first occur, and may be extended upon written agreement of Licensor and Licensee.

3. It is expressly understood and agreed that any review of the Licensee's plans or specifications, comments thereon, or monitoring of Licensee's work shall not constitute or be construed as an approval of such plans or representation or warranty on the part of PSE&G as to the adequacy or propriety of such plans or specifications or the methods of work, nor shall PSE&G be deemed to have assumed any liability to the Licensee or to any third party by reason of such review or monitoring or by virtue of the presence of PSE&G representatives on the Premises.

4. Licensee shall be held to have inspected the Premises where Licensee's work or activities are to be performed under this License and to have satisfied itself as to the conditions under which it will be obliged to operate, or that in any manner could affect the work or activities under this License. No allowances shall be made on behalf of



Licensee for any failure on Licensee's part to adequately inspect the Premises. It is the obligation of Licensee to ascertain all the facts concerning conditions to be found at the Premises, including all physical characteristics above, on, and below the surface of the ground, to consider fully these and all other matters which could in any way affect the work or activities to be performed and to make the necessary investigations relating thereto. PSE&G shall have no responsibility with respect to ascertaining for Licensee facts concerning physical characteristics at the Premises. Licensee warrants and agrees to conduct all subsurface work or activities in a manner so as to prevent any compromise of the existing PSE&G facilities and/or equipment on or near the Premises.

5. The License herein granted shall be subject to and subordinate to any and all easements, rights, privileges, other licenses or other grants of whatever nature heretofore given by the Licensor or otherwise created, which now exist and which affect said Premises, such as, but not limited to, streets, roadways, underground conduits, sewers, pipes, or rights-of way.

6. Judy A. Ballerine, Electric Distribution Senior Environmental Analyst ("Ms. Ballerine"); and Thomas A. Silver, Manager - Corporate Properties ("Mr. Silver") shall be notified prior to the Licensee's first entry unto the Premises. The Licensee shall notify Ms. Ballerine and Mr. Silver, in writing, in accordance with Paragraph 16 herein, of the schedule of any intended entry no later than five (5) business days prior to the first date thereof during which the work will be commenced. Ms. Ballerine and Mr. Silver agree to use all reasonable diligence to have a representative at the Premises at the agreed-upon date and time of entry. Licensee shall comply with the directions of Ms. Ballerine with respect to the time and manner of such work as herein permitted and the NJDEP's approval. No work shall be permitted on days designated as holidays on PSE&G's calendar, available upon request, without the prior written approval of Ms. Ballerine. Licensee shall not make any verbal requests to commence work or activity under this License unless the foregoing written five-day notice concerning such work or activity has been provided to PSE&G.

Licensee shall not seek any verbal approval from PSE&G or its representatives for the conduct of work or activity that is not specifically authorized by and set forth in this License whether on the Premises or on PSE&G property outside the Premises. Further, Licensee agrees to provide a copy of this License to all Licensee personnel whose responsibilities include arranging for and implementing access to the Premises and/or performing the work and conducting the activities under this License. PSE&G shall have the right to have a representative present at the Premises during Licensee's entry and presence thereon, and Licensee shall compensate PSE&G at the rate of \$80.00 per hour for each hour that such representative is present at the Premises as well as for travel time to and from the Premises, up to a maximum of \$400.00 for the extent of this License.

7. In the event Ms. Ballerine and/or Licensor shall determine that such work will unduly interfere with the operations of PSE&G's facilities or constitutes a hazard to life or property, the Licensee shall immediately suspend work until such time as Ms. Ballerine and/or Licensor determines that work may safely resume.

8. During the performance of such work as herein permitted, the Licensee at all times shall provide suitable barriers and other safety measures, including but not limited to the use of protective clothing, maintain suitable work area protection and shall take such other protective measures as directed by Ms. Ballerine, or Licensor.

9. During the performance of such work as herein permitted, the Licensee shall perform said work in accordance with all provisions of the federal OSHA standard

1910.333, codified at 29 CFR 1910.333, inclusive, as amended and supplemented, concerning safety precautions to be taken in the proximity of certain electrical conductors installed above ground, and in accordance with all rules and regulations promulgated thereunder by the Commissioner of Labor and Industry of New Jersey. Such work shall also be in accordance with the provisions of the Federal Occupational Safety and Health Act of 1970 and of Subpart "N", Paragraph 1926.550 of the Rules and Regulations issued thereunder and codified at 29 CFR 1926.550 and in compliance with the latest edition of the National Electrical Code and applicable building codes. Further, all work shall comply with all applicable Department of Transportation Minimum Federal Safety Standards promulgated under authority of the Natural Gas Pipeline Safety Act of 1968, codified at 49 App. 1671, et seq. and in accordance with the Hazardous Liquid Pipeline Safety Act of 1979, codified at 49 App. U.S.C. 2001, et seq. and to the regulations promulgated thereunder and codified at 49 CFR, Part 192, et seq. and to the requirements of New Jersey Public Law 1994, Chapter 118, called the Underground Facility Protection Act and the penalties thereunder. Licensee, its employees, agents, and/or contractors shall notify One Call Systems, Inc. by telephone at 1 (800) 272-1000 at least three days prior to the commencement of any work at or in the vicinity of the Premises. This License shall be subject to all valid rules, regulations and orders of any regulatory body having jurisdiction, including those federal, state, county, and/or local bodies and agencies implementing various environmental and/or safety and health laws and regulations.

10. During the performance of such work as herein permitted, Licensee shall at all times maintain the greatest clearance between all equipment and the energized electrical conductors of PSE&G as required by the applicable provisions of the above-cited standards, statutes and regulations.

11. Licensee shall keep the Premises free of debris. Prior to expiration or revocation of this License, the Licensee shall, at its own cost and expense, restore the Premises to the condition existing immediately prior to the commencement of work or as approved by PSE&G. Licensee shall complete all work as herein permitted in a prompt and diligent manner. Licensee shall not permit any mechanics', materialmens' or other similar liens or claims to stand against the Premises for labor and material furnished in connection with the work herein permitted. Licensee shall pay for all materials and labor used on the Premises by Licensee and shall hold Licensors harmless on all mechanics' or materialmens' liens enforced against the Premises as a result of the conduct of the work herein permitted.

12. It is hereby agreed that any damage to the Premises resulting from or in any way arising out of the Licensee's work or entry hereunder shall be repaired promptly by the Licensee. If the Licensee fails to make such repairs within a reasonable time after being requested to do so, PSE&G shall have the right to make such repairs and the Licensee hereby agrees to reimburse PSE&G for all costs and expenses thereof.

13. Within thirty (30) days of Licensee's receipt and/or completion of the following information, Licensee shall also provide PSE&G with all correspondence, validated test results or studies (both field observations and laboratory analyses) (including all conclusions drawn therefrom) regarding samples taken and conditions observed at the Premises in connection with the work herein permitted.

14. Nothing herein contained shall be understood or construed to create or grant any third party benefits, rights or property interests unless the person claiming such rights is identified herein and the rights claimed are expressly set forth herein. It is further agreed that the privileges granted and conferred by this License shall not be transferred or

assigned in whole or in part without the express, prior, and written consent of Licensor.

15. This License is not intended to grant permission to enter upon, use and occupy property not owned by or under the jurisdiction of PSE&G, nor is it intended to relieve Licensee from its responsibility to comply with all applicable Federal, State, and municipal statutes and ordinances, rules and regulations, orders and directives of appropriate governmental agencies as now exist or may hereafter provide, or its responsibility to procure and maintain in effect all other requisite and applicable permissions and approvals.

16. All notices required hereunder to be given to PSE&G shall be sent by telecopy transmission and certified mail; return receipt requested or receipted overnight mail to:

Ms. Judy Ballerine
Public Service Electric and Gas Company
Electric Distribution Palisades Division
325 County Avenue
Secaucus, New Jersey 07094
Telecopy No. (201) 392-1321 or (201) 866-0845

Mr. Thomas A. Silver
Manager - Corporate Properties
PSEG Services Corporation
80 Park Plaza, T6B
P. O. Box 570
Newark, New Jersey 07101
Telecopy No. (973) 621-7484

All notices required hereunder to be given to USEPA shall be sent by telecopy transmission and certified mail; return receipt requested or receipted overnight mail to:

Grisell V. Diaz-Cotto
Remedial Project Manager
Central New Jersey
Remediation Section
USEPA - Region II
290 Broadway
New York, New York 10007-1866
Telecopy No. (212) 637-4429

17. Licensee, for itself, its successors and assigns, agrees to assume all risks of and liability for and to indemnify, protect and hold harmless and hereby releases PSE&G, its heirs, successors and assigns and each of its officers, agents, servants, employees, and contractors from and against any and all liability, losses, injuries, deaths, claims, demands, actions, suits, judgments, damages, costs, expenses (including reasonable attorneys' fees), civil penalties, and fines which may result in any manner from the use and occupancy of and/or entry on the Premises by Licensee or any officer, servant, employee, licensee, invitee, contractor, successor, assignee, or agent of Licensee and/or resulting from or attributable to contamination originating at and/or emanating from the Premise.

18. Prior to the start of any work, Licensee shall at its own expense procure and maintain until final completion of the work the following minimum insurance in

forms and with insurance companies acceptable to PSE&G:

Worker's Compensation Insurance - in accordance with statutory requirements and Employers' Liability Insurance with a minimum limit of \$500,000 each accident.

Comprehensive General Liability Insurance - (occurrence form) including premises, contractual liability, products/completed operations, independent contractors, broad form property damage, and coverage for explosion, collapse and underground hazards (XCU) with the following limits of liability: Bodily Injury - \$1,000,000 each occurrence; Property Damage - \$1,000,000 each occurrence.

Comprehensive Automobile Liability Insurance - including coverage for all owned, non-owned and hired automobiles used during the occupancy of the property and the performance of the work with the following minimum limits of liability: Bodily Injury - \$1,000,000 each occurrence; Property Damage - \$1,000,000 each occurrence.

Environmental/Pollution Liability - with minimum limits of \$1,000,000 each occurrence if the occupancy of the property or the work involves environmental testing, remediation, including the disposal, handling or transportation of hazardous or toxic wastes, materials or substances.

All liability coverages shall name PSE&G as an additional insured to support the contractual obligations assumed by Licensee and provide that this coverage is primary and without right of contribution from insurance carried by PSE&G. Prior to access to the Premises, Licensee will deliver certificates of insurance to PSE&G evidencing this coverage is in effect and providing at least thirty (30) days' notice to PSE&G of any cancellation, termination or material alteration of said insurance.

Licensee shall notify Mr. Kenneth E. Brockman, PSE&G's Manager - Risk Management, Telephone (973) 430-7056, Ms. Ballerine and PSE&G's Claims Department immediately by telephoning (973) 430-7000 and in writing, within 24 hours after the occurrence thereof, of all accidents that result from the use and occupancy of and/or entry on the Premises by Licensee. Such notice shall not relieve Licensee of its obligations under this agreement, nor be construed to be other than a mere notification.

The insurance requirements as set forth above in no manner relieve or release Licensee, its agents, subcontractors and invitees from, or limit their liability as to any and all obligations assumed herein.

19. All provisions providing for limitation of or protection against loss or liability of PSE&G in this License, including all warranties, protections, and indemnities, shall survive the termination, revocation, suspension, cancellation or expiration of this License.

20. This License is given voluntarily, on behalf of PSE&G, with knowledge of PSE&G's right to refuse and without threats or promises of any kind.

21. The entire License between PSE&G and the Licensee is contained herein and no modification hereof shall be effective unless in writing, signed by the parties hereto.

22. This License shall be governed by and construed in accordance with the laws of the State of New Jersey.

23. The signatories hereto expressly represent that they have the authority to enter into this agreement on behalf of the respective parties thereto and to bind each of them to the obligations contained herein.

IN WITNESS WHEREOF, the undersigned have caused this License for Right of Entry to be executed by their duly authorized corporate officers as of the dates referenced below.

PUBLIC SERVICE ELECTRIC AND GAS COMPANY

By: _____

Date: _____

Thomas A. Silver, Manager - Corporate Properties
PSEG Services Corporation

USEPA, REGION II

By: _____

Date: _____